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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,428	08/29/2003	Fei Xie	17405US04	8633

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EXAMINER

PAN, YUWEN

ART UNIT PAPER NUMBER

2618

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/651,428

Applicant(s)

XIE, FEI

Examiner

Yuwen Pan

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

DETAILED ACTION

Claim Rejections - 35 USC § 112

2. Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Receiving a first signal in a voice activity detector, receiving a second signal in the voice activity detector, and comparing the first signal to the second signal. The compared signals must be of the same time frame. The signal having the higher voice data content is selected for recording are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). In the last presented claim 18, the applicant claims only "a determination of data content level". First of all, such term has no support from the specification. Second based on the closest disclosure from the specification, the "data content" claimed by the applicant isn't any data, it is regarding to voice data only since such data is going to pass to the voice activity detector that is mention later in the specification. Third, according the specification, signals from both uplink frame and downlink frame that are within the same time duration are under analysis. Without all the required condition, one ordinary skill in the art could not possible understand the claimed invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, and 7-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prior et al (US006349220B1).

Per claim 1, Prior discloses a method in a mobile set for selecting data to be stored, comprising: utilizing a dedicated function key to record voice conversation for a period, just the user's voice or just the other party during a phone call, thus different set of data frames as either uplink conversation frames or packets or downlink conversation frames or packets (see column 4 and lines 32-46). Prior doesn't expressly teach that the recording modes are displayed and selected accordingly. Prior does teach a touchpad that is responsive to the user to select a function displayed in an associated display region (see column 1 and lines 37-62, column 4 and line 47-column 5 and line 5). It would have been obvious to one ordinary skill in the art to display the listed recording modes for the users to select via a user interface, display such that it is user-friendlier and reduce the size of the phone.

Per claim 2, Prior further teaches that a confirmation notification is provided after the user makes a selection or decision (see figure 13).

Per claim 7 and 8, Prior further teaches that voice signals are recorded from both ends (see column 4 and lines 33-39).

Same arguments apply, mutatis mutandis, to claims 10 and 11.

Per claim 9, Prior further teaches that the set of data frame include non-speech data, SMS, email (see column 6 and lines 8-10).

Same arguments apply, *mutatis mutandis*, to claim 13-17.

Per claim 12, Prior further teaches that the recording modes include the whole conversation from both ends, part of conversation from either end (see column 4 and lines 32-39).

5. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prior et al (US006349220B1) in view of Haimi-Cohen (US006233320B1).

Per claim 3, Prior discloses a method in a mobile set for selecting data to be stored, comprising: utilizing a dedicated function key to record voice conversation for a period, just the user's voice or just the other party during a phone call, thus the data content is analyzed according to the user selection. For example, if the user selects a period as 1 minute then the data frames that are within one minute time period would be recorded. Similarly, if the user chooses that only the user's voice or other party's voice to be recorded only, prior to the recording the data frame from both uplink and downlink would be analyzed and screened to determine with the particular frame is recorded worth (see column 4 and lines 32-46). Prior doesn't expressly teach that the recording modes are displayed and selected accordingly. Prior does teach a touchpad that is responsive to the user to select a function displayed in an associated display region (see column 1 and lines 37-62, column 4 and line 47-column 5 and line 5). It would have been obvious to one ordinary skill in the art to display the listed recording modes for the users to

select via a user interface, display such that it is user-friendlier and reduce the size of the phone. Prior is silent about replaying the recorded conversation during a real time conversation. Of course, if a mobile set has a record function, it is obvious that such mobile set has playback function. Haimi-Cohen teaches a record and play back mobile set (see column 6 and lines 17-58). It would have been obvious to one ordinary skill in the art to combine teaching of Haimi-Cohen with Prior such that the user is able to playback any recorded conversation entirely or partly.

Same arguments apply, *mutatis mutandis*, to claim 4.

Per claim 5, Prior further teaches that the displaying of a list of data structures can be accessed during a real time subscriber conversation using the mobile set without interfering in the communication (see column 6 and lines 1-27).

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prior et al (US006349220B1) and Haimi-Cohen (US006233320B1) as applied to claim 4 above, and further in view of Goh (US006671353B1).

Combination of Prior and Haimi-Cohen has disclosed an analogous art as recited in claim 4. Combination of Prior and Haimi-Cohen doesn't teach that a part of a previously recorded conversation may be transmitted through the uplink signal. Goh teaches that a part of a previously recorded conversation may be transmitted through the uplink signal (see column 3 and lines 63-64). It would have been obvious to one ordinary skill in the art to combine the teaching of Goh with the combination such that user is able to send saved memo to another party.

7. Claim 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prior et al (US006349220B1) and Haimi-Cohen (US006233320B1) as applied to claims 3 and 4 above, and further in view of Judge (US006718298B1).

Combination of Prior and Haimi-Cohen has disclosed an analogous art as recited in claim 3 and 4. Combination of them doesn't teach that the data content analysis includes a voice activity detector. Judge teaches to utilize voice activity detector (see column 2 and lines 30-57, figure 1 and 2). It would have been obvious to one ordinary skill in the art at the time the invention was made to combine the teaching of Judge with previous combination such that absence of speech is detect and flagged.

Furthermore, the reference Judge supports the examiner's argument that it is not necessary to analyze the voice data from the downlink because such voice data has been compressed by the voice activity detector from the other end.

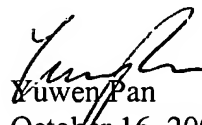
Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yuwen Pan whose telephone number is 571-272-7855. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anderson D. Matthew can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Yuwen Pan
October 16, 2006


Matthew D. Anderson
Supervisory Patent Examiner